

E-Filed on 11/09/07

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Special Litigation Counsel for USACM Liquidating Trust

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Counsel for USACM Liquidating Trust

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:
USA COMMERCIAL MORTGAGE COMPANY,

Debtor.

In re:
USA CAPITAL REALTY ADVISORS, LLC,

Debtor.

In re:
USA CAPITAL DIVERSIFIED TRUST DEED
FUND, LLC,

Debtor.

In re:
USA CAPITAL FIRST TRUST DEED FUND,
LLC,

Debtor.

In re:
USA SECURITIES, LLC,

Debtor.

Affects:
☐ All Debtors
☒ USA Commercial Mortgage Company
☐ USA Capital Realty Advisors, LLC
☐ USA Capital Diversified Trust Deed Fund, LLC
☐ USA Capital First Trust Deed Fund, LLC
☐ USA Securities, LLC

Case Nos.:
BK-S-06-10725-LBR
BK-S-06-10726-LBR
BK-S-06-10727-LBR
BK-S-06-10728-LBR
BK-S-06-10729-LBR

JOINTLY ADMINISTERED
Chapter 11 Cases

Judge Linda B. Riegle Presiding

**NOTICE OF FILING PROOF OF
SERVICE OF SUBPOENA FOR
RULE 2004 EXAMINATION**

NOTICE IS GIVEN that the USACM Liquidating Trust herewith files the:

**Proof of Service of Subpoena for Rule 2004 Examination
on Russell S. Walker, Registered Agent for Woodbury &
Kesler, P.C. (Exhibit A Attached).**

1 DATED: November 9, 2007

2 **DIAMOND MCCARTHY LLP**

LEWIS AND ROCA LLP

3
4 By: /s/ Eric D. Madden
5 Allan B. Diamond, TX 05801800 (pro hac vice)
6 William T. Reid, IV, TX 00788817 (pro hac vice)
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*Special Litigation Counsel for
USACM Liquidating Trust*

By: /s/ Rob Charles
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Las Vegas, Nevada 89169-5996
(702) 949-8320 (telephone)
(702) 949-8321 (facsimile)

Counsel for USACM Liquidating Trust

United States Bankruptcy Court

DISTRICT OF UTAH

IN RE

USA COMMERCIAL MORTGAGE COMPANY,
 USA CAPITAL REALTY ADVISORS, LLC,
 USA CAPITAL DIVERSIFIED TRUST DEED FUND LLC,
 USA CAPITAL FIRST TRUST DEED FUND LLC,
 USA SECURITIES, LLC,

DEBTORS.


AFFECTS: ALL DEBTORS

TO: Woodbury & Kesler, P.C.
 By and through its registered agent:
 Russell S. Walker
 265 East 100 South, Suite 300
 Salt Lake City, Utah 84111

SUBPOENA FOR RULE 2004 EXAMINATION

CASE NOS. BK-S-06-10725 LBR
BK-S-06-10726 LBR
BK-S-06-10727 LBR
BK-S-06-10728 LBR
BK-S-06-10729 LBR

JOINTLY ADMINISTERED UNDER
 CASE No. BK-S-06-10725-LBR
 IN THE DISTRICT OF NEVADA


 Title Process Server
 Date 10-25-07 Time 10:00 AM
 P/S SAME

X YOU ARE COMMANDED to produce a corporate representative for examination under Federal Rule of Bankruptcy Procedure 2004, regarding the following topics at the place, date and time specified below. The USACM Liquidating Trust reserves the right to videotape all examinations.

SEE ATTACHED EXHIBIT A FOR TOPICS OF EXAMINATION

PLACE OF TESTIMONY	DATE AND TIME
WOODBURY & KESLER, P.C. 265 EAST 100 SOUTH, SUITE 300 SALT LAKE CITY, UT 84111	November 29, 2007 10:00 A.M. (or such other mutually agreeable date and time)

SEE ATTACHED EXHIBIT B FOR DOCUMENTS REQUESTED

X YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below:

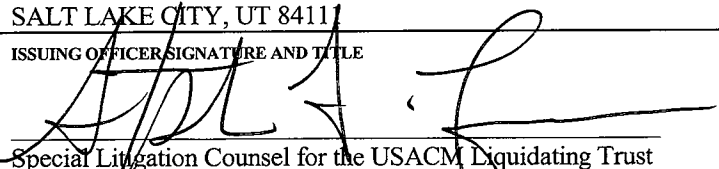
PLACE	DATE
WOODBURY & KESLER, P.C. 265 EAST 100 SOUTH, SUITE 300 SALT LAKE CITY, UT 84111	November 16, 2007 (or such other mutually agreeable date and time)
ISSUING OFFICER SIGNATURE AND TITLE	DATE
 Special Litigation Counsel for the USACM Liquidating Trust	October 23, 2007
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER	
STEPHEN LODEN DIAMOND MCCARTHY LLP 909 FANNIN, SUITE 1500 HOUSTON, TEXAS 77010 (713) 333-5100	

EXHIBIT "A"

PROOF OF SERVICE

DATE:

PLACE:

SERVED:

10-25-07

265 EAST 100 SO. #300, SLC, UT 84111

SERVED ON (PRINT NAME)

MANNER OF SERVICE

WOODBURY + KESLON, P.C.

R/A RUSSELL S. WALKER

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

10-25-07

Date

Signature of Server

C. And

PO Box 535, SLC, UT 84110-0535
Address of Server

Rule 45, Federal Rules of Civil Procedure, Parts (c) & (d) made applicable in cases under the Bankruptcy Code by Rule 9016, Fed.R.Bankr.P.:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order by the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any persons who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held or,

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

AFFIDAVIT OF SERVICE

State of UTAH

County of SALT LAKE

U.S. Bankruptcy Court

Case Number: BK-S-06-10725

DEBTOR:
USA COMMERCIAL MORTGAGE COMPANY

For:
Stephen A. Loden
DIAMOND MCCARTHY, LLP
909 Fannin
Suite 1500
Houston, TX 77010

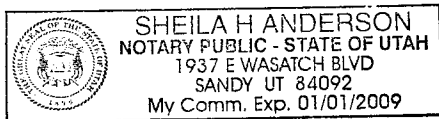
Received by ANDERSON PROCESS SERVICES, L.C. on the 24th day of October, 2007 at 2:20 am to be served on **WOODBURY & KESLER, P.C. R/A, RUSSELL S. WALKER, 265 EAST 100 SOUTH, SUITE 300, SALT LAKE CITY, UT 84111.**

I, C. D. Anderson, being duly sworn, depose and say that on the **25th day of October, 2007 at 10:00 am, I:**

Served the within named **CORPORATION** by delivering a true copy of the **SUBPOENA and MOTION FOR ORDER AUTHORIZING EXAMINATION UNDER BANKRUPTCY RULE 2004, ORDER AUTHORIZING EXAMINATION UNDER BANKRUPTCY RULE 2004, CHECK** with the date and hour of service endorsed thereon by me to **RUSSELL S. WALKER** as **Registered Agent** of the within named corporation, in compliance with state statutes.

Additional Information pertaining to this Service:
SERVED 10-25, 10:00A

I am over the age of 18 and have no interest in the above action.



Subscribed and Sworn to before me on the 26th day of October, 2007 by the affiant who is personally known to me.

Sheila Anderson
NOTARY PUBLIC

C. D. Anderson
C. D. Anderson
Private Investigator G101390

ANDERSON PROCESS SERVICES, L.C.
230 West 200 South
Suite 2302
Salt Lake City, UT 84101
(801) 619-1110
Our Job Serial Number: 2007003820